IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 3RD DECEMBER 2007 / 12TH AGRAHAYANA 1929

MFA.No. 1077 of 2001(B)

OP(MV).1624/1996 of MOTOR ACCIDENT CLAIMS TRIBUNAL, TIRUR
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APPELLANT: 3RD RESPONDENT

UNITED INDIA INSURANCE COMPANY LIMITED,
THAZHEPALAM, TIRUR REP.BY THE
DEPUTY MANAGER, 3RD PARTY CLAIMS,
UNITED INDIA INSURANCE COMPANY LIMITED,
VETTUKATTIL BUILDINGS, M.G.ROAD,
ERNAKULAM.

BY ADV. SRI.R.S.KALKURA

RESPONDENTS: PETITIONERS 1 TO 3/ RESPONDENT 1 AND 2
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1. **AMARIYIL MARIYAMMU,**
W/O. LATE NALAKATH MOIDEEN ALIAS BAPPU HAJI,
AGED 53 YEARS.

2. **ERANIKKAL THAHIRA, W/O. LATE SHAHUL HAMEED,**
AGED 26 YEARS.

3. **SENA MARIYAM, D/O. LATE SHAHUL HAMEED,**
AGED 2 YEARS (MINOR) REP.BY GUARDIAN
MOTHER ERANIKKAL THAHIRA,
W/O. LATE SHAHUL HAMEED.

4. **K.V.SUNANDAN, S/O. NARAYANAN,**
KURUPPAM VEETTIL HOUSE,
PURATHUR AMSOM, DESOM,
P.O. PURATHUR, TIRUR TALUK,
MALAPPURAM DISTRICT.

5. **N.ALAVI, M/S. ANISHA TRANSPORT, VAKKAD,**
PARAVANNA P.O., PARAVANNA, TIRUR TALUK,
MALAPPURAM DISTRICT.

BY ADV. SRI.P.V.JAYACHANDRAN - R4 & R5

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 03/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.F.A. NO.1077/2001

ORDER ON CMP. NO.7749/2001 IN MFA. NO.1077/2001

DISMISSED

3.12.2007 **SD/- J.B.KOSHY, JUDGE**

SD/- K.T.SANKARAN , JUDGE

/TRUE COPY/

P.A. TO JUDGE

tss

J.B.KOSHY & K.T.SANKARAN, JJ.

M.F.A.NO.1077 OF 2001 (B)

Dated this the 3rd day of December, 2007

J U D G M E N T

KOSHY,J.

This appeal is filed by the Insurance company. A 35 year old man employed as a sales man in Abudhabi sustained fatal injuries in a motor accident that occurred on 17.2.1993. His wife, mother and daughter filed application for compensation. Contention raised was that he was earning 4125 dirhams as salary which if converted into Indian money, Rs.37,125/- per month. They claimed a compensation of Rs.20,55,000/-. Tribunal found that accident occurred due to the negligence of the 1st respondent driver of the vehicle owned by the 3rd respondent Insurance company. However, tribunal awarded only an amount of Rs.8,03,000/-. Only quantum of compensation is disputed in this appeal.

2. Even though it was contended that Rs.37,125/- was

the monthly salary of the deceased at the time of accident, tribunal has taken only Rs.4,000/- for calculation of compensation. The pass book produced shows that in October 1986, an amount of Rs.7,000/- was deposited. In November, Rs.12,200/- was deposited and in December, Rs.13,300/- was deposited. Of course in two months amount deposited was Rs.2,000/- each. Apart from the amount by Ext.A6, he must have sufficient savings also. In any event, it is not the savings that is concerned but is the monthly income that is concerned. One third has to be deducted and balance has to be taken as the family contribution. Here Ext.A4 is the salary certificate. Ext.A6 is the pass book. Previous to the accident, amount deposited was more than Rs.10,000/- per month. Tribunal has taken only Rs.4,000/- as the family contribution taking into account the expenses that may be incurred. In any event, we cannot say that the family contribution assessed by the tribunal is very high and needs any interference in an appeal filed by the Insurance company. Only 16 was taken as the multiplier taking guidelines from the 2nd schedule and considering the age of the deceased. Considering the salary earned by him, future

prospects and other circumstances, we are of the opinion that just and reasonable compensation was awarded, and in any event, it is not liable to be interfered at the instance of the Insurance company. Hence appeal is dismissed.

J.B.KOSHY, JUDGE

K.T.SANKARAN, JUDGE

prp

J.B.KOSHY & K.T.SANKARAN, JJ.

M.F.A.NO.1077 OF 2001 (B)

J U D G M E N T

3rd December, 2007